

**FINDINGS OF CONFORMANCE
MULTIPLE SPECIES CONSERVATION PROGRAM
FOR DEL DIOS HIGHWAY ROW WIRELESS TELECOMMUNICATIONS FACILITY
MUP 06-072/ER 06-08-037**

May 9, 2008

I. Introduction

The proposed wireless facility, Major Use Permit 06-072 (MUP 06-072) is located along the northern boundary of the parcel line within the Del Dios Highway right-of-way, APN 265-320-23. The subject project is also within the Multiple Species Conservation Program (MSCP) Hardline Preserve Land, immediately adjacent to Take Authorized Land located along Del Dios Highway proper. US Fish and Wildlife Service (USFWS) and California Department of Fish and Game (CDFG) concurred (January 2, 2008 e-mail) that the proposed wireless facility will be allowed within the MSCP Hardline Preserve Land because it is located along the Del Dios Highway right-of-way with minimal impacts to 0.10-acre of coastal sage scrub habitat to be mitigated at two times the required 1.5:1 ratio to account for the loss of designated MSCP Hardline Preserved Land for a ratio total of 3:1 and equivalent to approximately 0.30-acre of Tier II or higher Tier mitigation land located within the MSCP Subregional Planning Area. The proposed project impacts are considered to be a Biological Resource Core Area (BRCA) because of its location in and adjacent to MSCP Hardline Preserve Land and mitigation will occur in BRCA land.

The proposed wireless facility consists of 2 antennas constructed on a 40-foot high, steel utility pole and excavation of an approximate 6-foot by 17-foot underground vault to serve as the equipment shelter. An electrical conduit trench would be placed adjacent to the existing guardrail along Del Dios Highway for approximately 750-feet in order to connect to an appropriate electrical source.

The existing biological resources for the proposed wireless facility were evaluated in a Biological Impact Analysis Report (Merkel and Associates, June 18, 2008). Existing resources located within the study area (100-feet surrounding the project area) are 1.26 acres of southern coast live oak riparian forest, 0.03-acre of coast live oak woodland, 2.27 acres of Diegan coastal sage scrub (including 1.94 acres of disturbed quality Diegan coastal sage scrub), 0.63-acre of non-native vegetation, 0.42-acre of disturbed habitat, and 0.85-acre of urban/developed. Two sensitive plants and no sensitive wildlife species were observed within the study area and are as follows: California adolphia (*Adolphia californica*) and spiny rush (*Juncus acutus* ssp. *leopoldii*). Since this project is located along the Del Dios Highway right-of-way, minimal impacts are proposed within the study area. Approximately 0.10-acre of coastal sage scrub considered to be disturbed in quality will be impacted from the installation of this proposed wireless facility. No sensitive plant species will be impacted as a result of this project.

Impacts to Habitat and Required Mitigation

Habitat Type	Existing Acreage Within the Study Area	Impacted Acreage	Proposed Mitigation Ratio	Offsite Mitigation Acreage
Southern Coast Live Oak Riparian Forest	1.26	*0	NA	NA
Coast Live Oak Woodland	0.03	0	NA	NA
Diegan Coastal Sage Scrub	0.33	0	NA	NA
Disturbed Diegan Coastal Sage Scrub	1.94	0.10	3:1	0.30
Non-native Vegetation	0.63	0	NA	NA
Disturbed Habitat	0.42	0.12	N/A	NA
Urban/developed	0.85	0	N/A	NA
TOTAL	5.46	0.22		0.30

The findings contained within this document are based on County records, staff field site visits and the Biological Impact Analysis Report (Merkel and Associates, June 18, 2008). The information contained within these Findings is correct to the best of staff's knowledge at the time the findings were completed. Any subsequent environmental review completed due to changes in the proposed project or changes in circumstance shall need to have new findings completed based on the environmental conditions at that time.

The project has been found to conform to the County's Multiple Species Conservation Program (MSCP) Subarea Plan, the Biological Mitigation Ordinance (BMO) and the Implementation Agreement between the County of San Diego, the CA Department of Fish and Game and the US Fish and Wildlife Service. Third Party Beneficiary Status and the associated take authorization for incidental impacts to sensitive species (pursuant to the County's Section 10 Permit under the Endangered Species Act) shall be conveyed only after the project has been approved by the County, these MSCP Findings are adopted by the hearing body and all MSCP-related conditions placed on the project have been satisfied.

II. Biological Resource Core Area Determination

The impact area and the mitigation site shall be evaluated to determine if either or both sites qualify as a Biological Resource Core Area (BRCA) pursuant to the BMO, Section 86.506(a)(1).

A. Report the factual determination as to whether the proposed Impact Area qualifies as a BRCA. The Impact Area shall refer only to that area within which project-related disturbance is proposed, including any on and/or off-site impacts.

The project site qualifies as a BRCA because the project is located within and surrounded by the MSCP Hardline Preserve.

B. Report the factual determination as to whether the Mitigation Site qualifies as a BRCA.

Mitigation will take place offsite with the purchase of credits in a County-approved mitigation bank, within a BRCA. The required mitigation will be a minimum of 0.3-acre of Tier II or higher Tier habitat. The County approved mitigation bank is considered a BRCA since it supports high habitat value, connectivity to native habitat lands, and maintains long-term viability of habitat.

III. Biological Mitigation Ordinance Findings

A. Project Design Criteria (Section 86.505(a))

The following findings in support of Project Design Criteria, including Attachments G and H (if applicable), must be completed for all projects that propose impacts to Critical Populations of Sensitive Plant Species (Attachment C), Significant Populations of Narrow Endemic Animal Species (Attachment D), Narrow Endemic Plant Species (Attachment E) or Sensitive Plants (San Diego County Rare Plant List) or proposes impacts within a Biological Resource Core Area.

1. Project development shall be sited in areas to minimize impact to habitat.

The proposed project was designed to minimize impacts to the maximum extent practicable, by placing the wireless facility along Del Dios Highway right-of-way and is parallel to an existing utility line. A steel pole will be placed next to an existing utility pole and the rest of the facility will be placed underground with an underground vault and electrical conduit line. The amount of total impacts to native vegetation will be minimal with 0.10-acre of impacts to coastal sage scrub that is low in quality because of its proximity to the existing road. In addition, temporary fencing will be placed between the project footprint and the MSCP Hardline Preserve Land.

2. Clustering to the maximum extent permitted by County regulations shall be considered where necessary as a means of achieving avoidance.

The project does not include residential development. Therefore, clustering does not apply.

3. Notwithstanding the requirements of the slope encroachment regulations contained within the Resource Protection Ordinance, effective October 10, 1991, projects shall be allowed to utilize design that may encroach into steep slopes to avoid impacts to habitat.

To the maximum extent practicable, the project design minimizes impacts to the resources onsite by installing the wireless facility along the Del Dios right-of-way and along the existing utility line in order to comply with County visual and

aesthetic requirements. The proposed project will not encroach into any of the adjacent slopes because this area is part of the MSCP Hardline Preserve and is comprised of sensitive biological resources.

4. The County shall consider reduction in road standards to the maximum extent consistent with public safety considerations.

Existing spur roads and the road shoulder would provide access from Del Dios Highway to the proposed wireless facility. No access road improvements are proposed.

5. Projects shall be required to comply with applicable design criteria in the County MSCP Subarea Plan, attached hereto as Attachment G (Preserve Design Criteria) and Attachment H (Design Criteria for Linkages and Corridors).

Attachment G and Attachment H are provided below.

B. Preserve Design Criteria (Attachment G)

In order to ensure the overall goals for the conservation of critical core and linkage areas are met, the findings contained within Attachment G shall be required for all projects located within Pre-Approved Mitigation Areas or areas designated as Preserved as identified on the Subarea Plan Map.

The proposed wireless facility is not located in PAMA, but is located in and adjacent to Hardline Preserve Lands and located adjacent to Take Authorized Lands.

1. Acknowledge the “no net loss” of wetlands standard that individual projects must meet to satisfy State and Federal wetland goals, policies, and standards, and implement applicable County ordinances with regard to wetland mitigation.

The project will not impact jurisdictional wetlands.

2. Include measures to maximize the habitat structural diversity of conserved habitat areas, including conservation of unique habitats and habitat features.

The proposed wireless facility proposes development within the Del Dios Highway right-of-way, parallel to an existing utility line, and immediately adjacent to Take Authorized Lands (Del Dios Highway proper). Approximately 0.10-acre of coastal sage scrub habitat that is disturbed in quality will be impacted within Hardline Preserve Land and will be mitigated at two times the required ratio (2X 1.5:1) within a BRCA equivalent to 0.30-acre. The mitigation site will also be located within BRCA lands.

- 3. Provide for the conservation of spatially representative examples of extensive patches of Coastal sage scrub and other habitat types that were ranked as having high and very high biological value by the MSCP habitat evaluation model.**

The proposed wireless facility will impact 0.10-acre of coastal sage scrub habitat that is located along the edge of the road shoulder parallel Del Dios Highway and an existing utility line. The coastal sage scrub habitat along the road shoulder is disturbed in quality because of the development of Del Dios Highway and the habitat's proximity to this development. Extensive patches of coastal sage scrub and other habitat types of higher quality reside beyond the Highway within the Hardline Preserve Lands. The proposed wireless facility will be located in areas where there are existing disturbances from previous developments and will have minimal impacts.

- 4. Create significant blocks of habitat to reduce edge effects and maximize the ratio of surface area to the perimeter of conserved habitats. Subsequently, using criteria set out in Chapter 6, Section 6.2.3 of the MSCP Plan, potential impacts from new development on biological resources within the preserve that should be considered in the design of any project include access, non-native predators, non-native species, illumination, drain water (point source), urban runoff (non-point source) and noise.**

Project impacts are limited to the perimeter of the Hardline Preserve and the Del Dios Highway right-of-way and will minimally go into undeveloped areas. In addition, the project is topographically limited do to the steepness of the terrain beyond the Del Dios Highway right-of-way and will impact 0.10-acre of the perimeter's edge of the Hardline Preserve.

- 5. Provide incentives for development in the least sensitive habitat areas.**

This project was designed to impact habitat of the least sensitivity. Design considerations were heavily weighed on the Hardline Preserve and determined based on the existing development of the area. Concurrence from US Fish and Wildlife Service (USFWS) and California Department of Fish and Game (CDFG) was received for this specific location.

- 6. Minimize impacts to narrow endemic species and avoid impacts to core populations of narrow endemic species.**

The project will not impact narrow endemic species.

- 7. Preserve the biological integrity of linkages between BRCAs.**

This project is essentially preserving the biological integrity of linkages between BRCAs by avoidance. Impacts are minimal and are reduces to the perimeter's

edge of the Hardline Preserve, an area that is low in quality do to the proximity of the existing Highway and utility line.

8. Achieve the conservation goals for covered species and habitats (refer to Table 3-5 of the MSCP Plan).

No impacts are proposed to any species located on Table 3-5. Approximately 0.10 acre of coastal sage scrub habitat to be mitigated at two times the required 1.5:1 ratio to account for the loss of designated MSCP Hardline Preserved Land for a ratio total of 3:1 and equivalent to approximately 0.30-acre of Tier II or higher Tier mitigation land located within the MSCP Subregional Planning Area. In addition, trenching, brushing, clearing and/or grading will be restricted during California gnatcatcher and tree-nesting raptor breeding season (though neither species were observed during site surveys).

C. Design Criteria for Linkages and Corridors (Attachment H)

For project sites located within a regional linkage and/or that support one or more potential local corridors, the following findings shall be required to protect the biological value of these resources:

Although the site is located within Hardline Preserve Lands, the site is also immediately adjacent to Take Authorized Lands located along Del Dios Highway proper. Del Dios Highway is a major corridor for cars, trucks, and bicyclists but is not a good wildlife linkage or corridor. The proposed wireless facility will not hinder or encourage wildlife movement within this area because it is located along Del Dios Highway right-of-way which is not a good wildlife linkage or corridor and the area of impact is minimal.

The project footprint will not impact the long-term movement of wildlife and genetic material because the project is located along the Del Dios Highway right-of-way which is a hindrance to wildlife movement. Since the project proposes minimal impacts to the area in addition to its proximity to the Highway, habitat linkages will not be impacted.

IV. Subarea Plan Findings

Conformance with the objectives of the County Subarea Plan is demonstrated by the following findings:

1. The project will not conflict with the no-net-loss-of-wetlands standard in satisfying State and Federal wetland goals and policies.

The project site does not contain any wetlands as defined by the County of San Diego (pursuant to the Resource Protection Ordinance), California Department of Fish and Game (pursuant to the Fish and Game Code), or the Army Corps of Engineers (pursuant to the Clean Water Act). Therefore, no impacts will occur to

any jurisdictional wetlands, and the no net loss of wetlands standards, goals, and policies have been satisfied.

2. The project includes measures to maximize the habitat structural diversity of conserved habitat areas including conservation of unique habitats and habitat features.

The habitat onsite is located along the edge of a large block of native habitat that continues to the south of Del Dios Highway. The site is located along the Del Dios Highway right-of-way and will impact 0.10-acre of coastal sage scrub habitat. The loss of 0.10-acre of coastal sage scrub will be mitigated offsite at a 2 times 1.5:1 equivalent to a ratio total of 3:1. Therefore, the small amount of land onsite to be impacted and the proposal to mitigate offsite in an approved bank within a BRCA will maximize conservation of diverse and unique resource types of high value.

3. The project provides for conservation of spatially representative examples of extensive patches of Coastal sage scrub and other habitat types that were ranked as having high and very high biological values by the MSCP habitat evaluation model.

The study area on the project site contains 2.27 acres of coastal sage scrub habitat. Proposed project impacts will remove 0.10-acre of coastal sage scrub habitat along the perimeter and between the Hardline Preserve and Take Authorized Area in an area mapped as "very high" by the MSCP habitat evaluation model. The loss of 0.10-acre of coastal sage scrub will be mitigated offsite at a 2 times 1.5:1 equivalent to a ratio total of 3:1. Therefore, the proposal to mitigate offsite in an approved bank will contribute to preserve assembly and to the conservation of sensitive habitat types that are in high to very high value areas.

4. The project provides for the creation of significant blocks of habitat to reduce edge effects and maximize the ratio of surface area to the perimeter of conserved habitats.

Proposed project impacts will remove 0.10-acre of coastal sage scrub habitat of low quality along the perimeter and between the Hardline Preserve and Take Authorized Area of the Del Dios Highway right-of-way and will not go into undeveloped areas within the Hardline Preserve.

Onsite mitigation is not proposed as part of this project; therefore, the application of preserve design principles for the creation of habitat is not warranted for this project. However, impacts to 0.10-acre of coastal sage scrub habitat will be mitigated at 3:1, in accordance with the requirements of the BMO. The purchase of offsite mitigation credits as proposed by the project will aid in creating large blocks of high quality habitat where edge effects are minimal and land is protected in perpetuity.

5. The project provides for the development of the least sensitive habitat areas.

The project has been designed to minimize impacts to native habitat by placing the wireless facility within the Del Dios Highway right-of-way and parallel to the existing utility line. Development has been proposed in the areas of the least sensitivity whenever topography and resources would allow.

6. The project provides for the conservation of key regional populations of covered species, and representations of sensitive habitats and their geographic sub-associations in biologically functioning units.

Based on the Biological Impact Analysis (Merkel & Associates, June 18, 2008), the proposed site is not believed to support key regional populations of covered species. Furthermore, the habitat onsite does not represent habitat that functions as a biological unit for any key regional populations. The loss of 0.10-acre of coastal sage scrub habitat will be mitigated offsite at a 3:1 ratio. The purchase of the offsite mitigation within a BRCA is expected to contribute to the preservation of a functioning ecosystem supporting MSCP covered species.

California gnatcatchers (*Poliophtila californica californica*) are not expected to be present onsite, based on the presence of two small stands of coastal sage scrub within the project area. Larger stands of this vegetation type are located northwest and southeast of the site and support California gnatcatchers. Coastal sage scrub patches located within the project area were not shown to support gnatcatchers.

Two sensitive plant species, California adolphia (*Adolphia californica*) and spiny rush (*Juncus acutus* ssp. *leopoldii*), and no sensitive wildlife species were identified within the study area. The proposed wireless facility is not proposed near the locations of these sensitive plants; therefore the project will not result in impacts to the species.

The project will be conditioned to prevent any potential disturbance during California gnatcatcher and tree-nesting raptor breeding season. All other covered species will be adequately protected through site design and the preservation of their respective habitats, through offsite mitigation.

7. Conserves large interconnecting blocks of habitat that contribute to the preservation of wide-ranging species such as Mule deer, Golden eagle, and predators as appropriate. Special emphasis will be placed on conserving adequate foraging habitat near Golden eagle nest sites.

The project is a wireless facility located adjacent to existing linear development of Del Dios Highway and a utility line. It is a small-scale project that would not create a barrier to wildlife movement or impede the use of nursery sites. The project will impact 0.10-acre of coastal sage scrub habitat. The habitat within the study area is part of a large block of native habitat that continues beyond Del Dios Highway right-

of-way. The corridors and topography onsite will remain unchanged as a result of this project.

The Biological Impact Analysis prepared by Merkel & Associates and dated June 18, 2008 concluded that no golden eagles have been recorded in the project area and no nesting sites are known within 4,000-feet of the project site, therefore no impacts are not expected to result in impacts to habitat actively utilized by golden eagles. The project area has the potential to be utilized by large mammals, such as southern mule deer and mountain lion; however no evidence of their use was identified during the biological surveys.

Based on the small scale of the project and the existing development within the Del Dios Highway right-of-way the project will not affect any large interconnecting blocks of habitat that contribute to the preservation of wide-ranging species such as mule deer, golden eagles and large predators.

- 8. All projects within the San Diego County Subarea Plan shall conserve identified critical populations and narrow endemics to the levels specified in the Subarea Plan. These levels are generally no impact to the critical populations and no more than 20 percent loss of narrow endemics and specified rare and endangered plants.**

The Biological Impact Analysis prepared by Merkel & Associates and dated June 18, 2008 concluded that no critical or narrow endemic plant or animal species were detected on the site. Two sensitive plant species, California adolphia (*Adolphia californica*) and spiny rush (*Juncus acutus* ssp. *leopoldii*), and no sensitive wildlife species were identified within the study area. The wireless facility is not proposed near the locations of California adolphia and spiny rush, therefore the project will not result in impacts to the species. Impacts to potential nesting locations of the California gnatcatcher or raptors would not be expected. Additionally, impacts to these species will be minimized by the implementation of breeding season avoidance.

The proposed wireless facility is a small scale project, placed within the existing Del Dios Highway right-of-way and will impact 0.10-acre of coastal sage scrub out of a total 5.46 acres included in the study area for the project. Impacts will be mitigated offsite at a 3:1 ratio in an approved mitigation bank within a BRCA. Therefore, the proposed facility is not expected to result in impacts to narrow endemic species or to rare or endangered plants.

- 9. No project shall be approved which will jeopardize the possible or probable assembly of a preserve system within the Subarea Plan.**

Proposed development of the wireless facility will not jeopardize any existing preserve systems within the Lake Hodges Segment of the MSCP because the loss of 0.10-acre of coastal sage scrub habitat is minimal and the project site was

chosen to minimize impacts by placing the wireless facility within the existing development within the Del Dios Highway right-of-way and will not compromise any possible or probable preserve area. Thus, the project would not adversely affect any existing or future MSCP preserve.

10. All projects that propose to count on-site preservation toward their mitigation responsibility must include provisions to reduce edge effects.

The project site does not propose any onsite preservation of habitat. The potential loss of 0.10-acre of coastal sage scrub will be mitigated offsite at a 3:1 ratio. All mitigation shall occur in a County approved mitigation bank within the boundaries of the County's MSCP Subregional Plan.

11. Every effort has been made to avoid impacts to BRCAs, to sensitive resources, and to specific sensitive species as defined in the BMO.

The project is a wireless facility located along the Del Dios Highway right-of-way. It is a small-scale project that would not create a barrier to wildlife movement or impede the use of nursery sites. The project will impact 0.10-acre of coastal sage scrub, out of approximately 5.46 acres included in the study area for the project. The study area consists of southern coast live oak riparian forest, coast live oak woodland, Diegan coastal sage scrub, disturbed coastal sage scrub, non-native vegetation, disturbed habitat, and developed land located between Del Dios Highway and steep slopes overlooking the San Dieguito River area.

The entire site qualifies as a BRCA. Therefore, any new development on the site would constitute an impact. However, to the maximum extent practicable, the project design minimizes impacts to the resources within the study area by placing the wireless facility within existing development along the Del Dios Highway right-of-way. The corridors and topography onsite will remain relatively unchanged as a result of this project.

Under the BMO, impacts to coastal sage scrub may be mitigated through habitat-based mitigation. The loss of 0.10-acre of coastal sage scrub will be mitigated offsite at a 3:1 ratio. Therefore, the small amount of land onsite to be impacted and the proposal to mitigate offsite in an approved bank within a BRCA is expected to contribute to the preservation of a functioning ecosystem supporting MSCP covered species. Therefore, impacts to BRCAs have been mitigated, and impacts to sensitive resources and sensitive species have been minimized as outlined in the BMO.

MSCP Designation For SDO6758B DEL DIOS HWY ROW MUP 06-072, **ER**

